

Message Text

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ORIGIN EB-03

INFO OCT-01 ISO-00 /004 R

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DRAFTED BY: EB/ICD/FTD:AJWILLIAMS

APPROVED BY: EB/ICD/FTD:AJWILLIAMS

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FM SECSTATE WASHDC

TO MR VICTOR FREIDMAN FRIED FRANK HARRIS SHRIVER AND
JACOBSON 120 BROADWAY NEW YORK NY 10005 TELEX 128173 STERIC
MR MAX VERNON 1519 COTTON EXPORT BLDG 608 N ST
ST PAUL DALLAS TEXAS 75221 TELEX 91086414040 TWX

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FOLLOWING REPEAT FROM AMERICAN EMBASSY MANILA 11696 SENT ACTION
SECSTATE WASHDC DATED 22 AUG 75

QTE

SUBJ: YUPANGCO-CIEC COTTON CONTRACTS

REF: MANILA 10966

1. FOLLOWING LETTER RECEIVED BY DBP FROM YUPANGCO IN RESPONSE
TO DBP PROPOSAL FOR SETTLEMENT OF CONTRACT AS REPORTED IN REFTEL.
QUOTE:

WE RECEIVED YOUR LETTER OF AUGUST 14, 1975 REGARDING THE
ALLEGED BALANCE OF COTTON CONTRACTS WITH COTTON IMPORT AND EXPORT
CORPORATION.

YOUR SUGGESTION REGARDING THE INCORPORATION IN OUR L/C
APPLICATION OF A SAFEGUARD CLAUSE, WILL IN A WAY MINIMIZE ERRORS
IN QUALITY AND WEIGHT OF FUTURE COTTON SHIPMENTS. HOWEVER, IF WE
OPEN THE L/C'S NOW AS PER YOUR SUGGESTION, WHAT COURSE OF ACTION
WOULD YOU SUGGEST FOR US TO TAKE IN ORDER TO RECOVER OUR LOSSES AND
DAMAGES SUFFERED FROM THE THREE LOTS ALREADY SHIPPED BY CLEC WHICH
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HAS BEEN THE SUBJECT OF OUR COMPLAINT UNDER CIVIL CASE NO. 21062

OF THE COURT OF FIRST INSTANCE OF RIZAL? OR WOULD CIEC, THRU YOUR INTERCESSION, SETTLE AMICABLY WITH US OUR DAMAGES AND LOSSES? REMEMBER THAT IN OUR LETTER OF JUNE 10, 1975 TO YOUR GOODSELVES, WE INFORM YOU OF OUR WILLINGNESS TO SHOW OUR COOPERATION TO YOUR EFFORTS TO SETTLE THIS MATTER. AS YOU RECALL, MR. WALTER CLARK, PRESIDENT OF CIEC, HAD PREVIOUSLY MADE AN OFFER OF COMPROMISE, TO WHICH WE MADE A REASONABLE COUNTER-OFFER. BUT LATER ON, WITHOUT MUCH ADO, CIEC WITHDREW THEIR OFFER.

WE WOULD LIKE VERY MUCH TO HAVE THIS PROBLEM SETTLED AS SOON AS POSSIBLE SO WE CAN NORMALIZE OUR DISRUPTED RAW COTTON IMPORTATION PROGRAM. WE WANT TO MAINTAIN A PLEASANT RELATIONSHIP WITH ALL OUR COTTON SUPPLIERS, AND AT THE SAME TIME PROTECT OUR COMPANY'S INTEREST. INASMUCH AS CIEC HAS STOOD FIRM ON THE TERMS OF THE ORIGINAL CONTRACT AND HAD INSISTED THAT THE COTTON SHIPPED WERE IN ACCORDANCE WITH SPECIFICATIONS DESPITE CONTRARY FINDINGS, AND SINCE THE COMPLETE SAMPLES DRAWN FROM THE LAST TWO SHIPMENTS OF CIEC BY GENERAL SUPERINTENDENCE, ARE STILL KEPT IN THEIR WAREHOUSE, WE SUGGEST AS A FINAL RECOURSE, THAT INDEPENDENT AND QUALIFIED COTTON QUALITY EXPERTS BE APPOINTED - ONE FROM THE UNITED STATES, ONE FROM CIEC, ONE FROM THE PHILIPPINES TEXTILE RESEARCH INSTITUTE, AND ONE FROM YUPANGCO, TO DECIDE BASED ON THE AVAILABLE SAMPLES WHETHER OR NOT THE COTTON SHIPPED WERE IN ACCORDANCE WITH CONTRACTED QUALITIES.

SHOULD THEY FIND THE COTTON SHIPPED TO BE PER SPECIFICATIONS IN THE CONTRACT, YUPANGCO COTTON MILLS, INC. WILL -

- 1) ENDEAVOR TO OPEN ALL THE L/CS FOR THE BALANCE OF ITS CONTRACT WITH CIEC.
- 2) PAY ALL EXPENSES OF FOREIGN AND LOCAL COTTON QUALITY EXPERTS APPOINTED TO DECIDE ON THE COTTON QUALITY SHIPPED; AND
- 3) CLAIMS FILED FOR RECOVERY OF LOSSES IN PREVIOUS SHIPMENTS WILL BE ENTIRELY WITHDRAWN AND NO CLAIM WHATSOEVER WILL BE MADE AGAINST CIEC.

ON THE OTHER HAND, SHOULD THE INDEPENDENT COTTON QUALITY UNCLASSIFIED

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EXPERTS FIND THE SHIPMENT NOT IN ACCORDANCE WITH THE CONTRACT, CIEC WILL HAVE TO -

- 1) PAY YUPANGCO ALL ITS DAMAGES AND CLAIMS FOR LOSSES SUFFERED FROM THE 3 LOTS ALREADY SHIPPED.
- 2) PAY EXPENSES OF INDEPENDENT COTTON EXPERTS, BOTH FOREIGN AND LOCAL.

3) CANCEL ALL OUTSTANDING CONTRACTS WITH YUPANGCO
COTTON MILLS, INC.

THE ABOVE PROCEDURE WILL BE EXPENSIVE BUT UNDER THE CIR-
CONSTANCES, WE THINK THIS WILL BE MOST FAIR TO BOTH PARTIES.

WE BELIEVE THAT IF WE OPEN THE L/CS NOW, CIEC WILL
ENTIRELY DISREGARD OUR CLAIM ON THE THREE PREVIOUS SHIPMENTS.
MOREOVER, JUDICIAL ADJUDICATION ON OUR JUST CLAIMS WILL LIKEWISE
BE RENDERED MOOT AND ACADEMIC.

WE BELIEVE THAT BUSINESS TRANSACTIONS SHOULD BE ANCHORED
ON FAIRNESS. WE LIKEWISE BELIEVE ON EQUAL TREATMENT OF CONTRACTING
PARTIES. WE HAVE FULL FAITH AND CONFIDENCE IN YOUR GOODSELVES.
WE TRUST THAT YOU WILL NOT ALLOW YOURSELVES TO BE WITTINGLY OR
UNWITTINGLY USED BY ANY PARTY, TO THE DISADVANTAGE OF LOCAL
COMPANIES, LIKE US, WHO ARE TRYING THEIR BEST TO PROVIDE EMPLOY-
MENT TO THE MASS OF OUR PEOPLE AND HELP IN THE ACCELERATED
ECONOMIC GROWTH OF OUR COUNTRY UNDER THE AEGIS OF THE NEW SOCIETY.

WE HOPE TO RECEIVED YOUR JUDICIOUS REPLY TO THIS MATTER,
AND WITH ASSURANCES OF OUR HIGHEST ESTEEM, WE REMAIN...ENF OF QUOTE.

2. COPIES OF DBP-YUPANGCO EXCHANGE OF CORRESPONDENCE POUCHED TO
USDA AND STATE DEPT. TODAY.
SULLIVAN UNQTE ROBINSON

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 22 AUG 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE200674
Document Source: CORE
Document Unique ID: 00
Drafter: EB/ICD/FTD:AJWILLIAMS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: SECSTATE WASHDC
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750824/aaaaaufp.tel
Line Count: 142
Locator: TEXT ON-LINE
Office: ORIGIN EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 MANILA 10966
Review Action: RELEASED, APPROVED
Review Authority: ellisooob
Review Comment: n/a
Review Content Flags:
Review Date: 02 DEC 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <02 DEC 2003 by MaustMC>; APPROVED <06 JAN 2004 by ellisooob>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: YUPANGCO-CIEC COTTON CONTRACTS
TAGS: n/a
To: MR VICTORIA JACOBSON 120 BROADWAY NEW YORK NY 10 MR MAX VERNON 1519 COTTON EXPORT BLD ST PAUL DALLAS
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006